

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-4712-2019

Decided on: 22.02.2019

Shakuntla Devi

.... Petitioner

Vs

Authorized Officer, State Bank of India and others Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Atul Sharma, Advocate
for the petitioner.

AJAY KUMAR MITTAL, J (ORAL)

The petitioner has approached this Court under Articles 226/227 of the Constitution of India, inter alia for issuance of a writ in the nature of certiorari for quashing the impugned actions of the bank while the bank has prematurely declared the account of the petitioner to be a “non-performing asset”, while only an amount of ₹34,284/- was overdue i.e. EMI of one month @ ₹22,823/- and have issued a notice of possession under Section 13(4) dated 28.12.2017 (Annexure P-4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act'), but has also sought and obtained an assistance order dated 08.01.2019 (Annexure P-6) from the office of the Learned Magistrate, Gurgaon for taking physical possession of the residential house of the petitioner, wherein the process as prescribed in the SARFAESI Act and Security Interest (Enforcement) Rules, 2002 has been mis-utilised while trying to proceed against the property of the petitioner.

2. It was stated by learned counsel for the petitioner that the petitioner had approached this Court earlier by way of filing CWP No.21063 of 2018, which was dismissed on 10.09.2018 with liberty to the petitioner to take recourse to the alternative remedies as are available to her, in accordance with law.

3. It was stated by learned counsel for the petitioner that the petitioner is prepared to deposit ₹2.53 lacs on account of part payment with the respondent-bank and he may be allowed to withdraw the present writ petition with liberty to approach the bank for regularization of the account by way of representation.

4. Dismissed as withdrawn. However, it shall be open for the petitioner to take recourse to the remedies as may be available to her, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

22.02.2019

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No